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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Eighth periodic report of States parties due in 1994

Addendum

REPUBLIC OF KOREA*

[17 November 1995]

* This document contains the eighth periodic report, due on 4 January 1994. For the seventh report submitted by the Republic of Korea and the summary record of the meeting at which the Committee considered that report, see documents CERD/C/221/Add.1 and CERD/C/SR.987.

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Introduction

1. The eighth periodic report of the Republic of Korea is submitted in accordance with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as "the Convention").

2. The Committee on the Elimination of Racial Discrimination (hereinafter referred to as "the Committee") is advised to read this report in conjunction with the previous reports submitted by the Government of the Republic of Korea.

3. The present report deals mainly with new developments since the submission of the seventh periodic report (CERD/C/221/Add.1) of 14 April 1992.

4. The information contained in this report is set out in accordance with the revised general guidelines concerning the form and contents of reports by States Parties (CERD/C/70/Rev.3).

PART I. GENERAL

5. As the supreme law of the State, the Constitution of the Republic of Korea (hereinafter referred to as "the Constitution") has contributed enormously to the promotion and protection of the effective enjoyment of all civil, political, economic, social and cultural rights by the Korean people.

6. The Constitution recognizes as the duty of the State the guarantee of fundamental and inviolable human rights based on respect for human dignity and the worth of the individual. In addition, article 11 (1) of the Constitution guarantees the fundamental human rights of all individuals, stating that "All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status".

7. While article 11 (1) of the Constitution does not make specific reference to racial discrimination due to the homogeneity of the Korean people, the subject is covered in a comprehensive manner by article 37 (1) of the Constitution, which states that "Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution". In compliance with these provisions of the Constitution, the national laws and regulations contain more detailed provisions relating to the civil, political, economic, social, cultural and other fields of public life.

8. The Government of the Republic of Korea (hereinafter referred to as "the Government") reaffirms that the Convention, ratified by the Government with the consent of the National Assembly, has been incorporated in the national laws in accordance with article 6 (1) of the Constitution, which provides that "Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea".

9. Accordingly, the Convention on the Elimination on All Forms of Racial Discrimination has become part of domestic laws, and is directly applicable and can be invoked in the courts of the Republic of Korea.

10. Furthermore, in order to bring our national human rights standards into stricter conformity with international human rights standards, the Government acceded to the Convention relating to the Status of Refugees (1951) and its Protocol (1967) on 3 December 1992, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) on 9 January 1995. The accession to these international human rights instruments will contribute to ensuring observance of and respect for fundamental human rights and promoting national understanding of the significance of human rights.

11. For the Committee's information, the demographic composition of the population of the Republic of Korea is given as follows:

(i) The Republic of Korea is an ethnically homogeneous country with a population of 44.85 million as of July 1995.

(ii) As of 31 July 1995, the number of foreign nationals residing in Korea is 99,522 or approximately 0.22 per cent of the total population.

Foreign nationals residing in the Republic of Korea

Total	99 522
Chinese Taipei	23 228
Americans (US)	20 428
Chinese (PRC)	16 635
Japanese	9 013
Other nationals	30 218

(iii) Since the establishment of diplomatic relations with the People's Republic of China in August 1992, there has been a sharp increase in the number of Chinese residents from the People's Republic of China as a result of the expansion of cultural and economic relations.

12. For the period 1992-July 1995, the total number of naturalized persons was 298.

13. Foreigners residing in Korea enjoy their rights pursuant to article 6 (2) of the Constitution, which reads as follows: "The status of aliens shall be guaranteed in accordance with international law and treaties".

PART II. INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

14. During the period under consideration, no new laws or regulations with relevance to article 2 of the Convention have been enacted. It should be underlined, however, that as already explained in Part I, the existing laws and practices are sufficient for a complete implementation of the Convention.

15. As regards the implementation of article 2, it is notable that, as a follow-up to accession to the Convention relating to the Status of Refugees and its Protocol on December 1992, the Government amended the Immigration Law, its Enforcement Ordinance and Enforcement Regulations to add new provisions on refugee status in 1993 and 1994.

Article 3

16. The Government welcomes the recent dramatic transformation of South Africa, which is now pushing ahead with measures to protect human rights, fundamental freedoms and the dignity of all individuals without distinction as to race, colour, or national or ethnic origin, and to eliminate all forms of racial discrimination with the inauguration of President Nelson Mandela in 1994.

17. The Government, together with the international community, has endeavoured to respond appropriately to the South African political process by lifting all sanctions, including those on trade in oil and military items. The Government believes that the removal of sanctions will contribute to building a new South Africa.

18. Since the establishment of diplomatic relations in 1992, the volume of trade between the Republic of Korea and the Republic of South Africa has been increasing rapidly, reaching the amount of US$ 1,058 million as of 1994. The Korean Government firmly believes that the South African case will serve as a good example of eliminating all kinds of racial discrimination.

Article 4

19. As already stated in previous periodic reports, it is understood that the existing constitutional safeguards and domestic legislation are sufficient for a complete implementation of article 4 of the Convention.

Article 5

20. The principle of equal protection of the law is observed in all legislative, judicial and administrative acts of the State. The Constitution, based on the principle of human dignity and value and the principle of the equality of individuals before the law, explicitly guarantees fundamental human rights by stipulating in detail various provisions regarding the freedom and rights of individuals in political, judicial, economic and cultural fields.

21. The Republic of Korea submitted its initial reports on implementation of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights, which were duly considered by the Human Rights Committee in July 1992 and by the Economic, Social and Cultural Rights Committee in May 1995, respectively.

22. The preparation and submission of these reports served as valuable opportunities and important steps for the Korean Government in strengthening its commitment to protect and promote all civil, political, economic, social and cultural rights.

23. As regards the implementation of article 5, the Government provides measures to prohibit racial discrimination and to guarantee the rights of everyone, without distinction as to race, colour, or national or ethnic origin.

24. Article 5 of the Labour Standards Act bans discriminative conditions for labour on the grounds of gender, nationality, religion or social status. Foreign employees are guaranteed the same rights to join a labour union as domestic employees. With regard to foreign industrial "trainees", the Government provided an administrative guideline on 1 March 1995, which ensures protection from violence and forced labour, legal working hours, a minimum wage and industrial accident and medical insurance benefits.

Article 6

25. The Constitution and the relevant laws of the Republic of Korea assure everyone within its jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions.

26. Remedies available in the case of an infringement of rights by government agencies are as follows:

(i) Petition: Generally, an individual who claims an infringement of his fundamental rights may obtain remedies by petitioning for the annulment or nullification of the administrative acts, or for the dismissal of the responsible officials under article 26 of the Constitution. Matters for which petitions are available are prescribed in article 4 of the Petition Act, and the petitioning method and procedure are prescribed in articles 6 to 8 of the said Act.

(ii) Appeals: An individual, whose rights or interests have been violated by an illegal or unjust administrative act, or by the exercise or non-exercise of government power by administrative agencies, may use the administrative appeals procedure to achieve the proper operation of the administration. (Administrative Appeals Act, art. 1.)

(iii) Litigation: Article 107 (2) of the Constitution provides that the courts shall adjudicate the constitutionality or legality of administrative acts. The details of the litigation procedure are prescribed in the Administrative Litigation Act.

(iv) Review of administrative decrees and regulations: In order to ensure that administrative decrees and regulations do not violate the fundamental rights of citizens, article 107 (2) of the Constitution provides courts with the power to review administrative decrees and regulations. The review may be conducted by the courts, when their constitutionality or legality is at issue in a trial. The Supreme Court has the power to make a final review.

(v) Remedies of the Constitution Court: In case of an infringement of fundamental rights by an unconstitutional administrative act, an individual may obtain remedies through a petition to the Constitution Court.

(vi) Compensation for damage: An individual, whose fundamental human rights have been infringed by the unlawful act of a public official in the course of his official duties, may claim compensation for damage from the State under the procedures prescribed by the National Compensation Act (Constitution, art. 29 (1)).

27. Remedies available in the case of an infringement of fundamental human rights by an individual are as follows:

(i) Complaint or accusation: The person claiming an infringement of his fundamental rights by another individual is entitled to seek redress of the illegal act from the criminal investigation authorities, i.e. the prosecutor's office and the police. For example, through a complaint or accusation with respect to an unlawful detention or an infringement of property rights, an individual can initiate an investigation or prosecution of such unlawful acts. In addition to a complaint or an accusation, the law provides for procedures for requesting an adjudication (Code of Criminal Procedure, arts. 260-262).

(ii) Civil lawsuit for compensation: An individual who claims an infringement of his fundamental rights by another person can also file a lawsuit to seek compensation for damages.

(iii) Remedies available to the victims of a crime: The Constitution provides for State aid to the victims of a crime, by stipulating that "Citizens, who have suffered bodily injury or death due to criminal acts of others, may receive aid from the State under the conditions prescribed by law" (art. 30). The State Aid for Victims of Crime Act, promulgated on 1 July 1988, sets forth detailed means and procedures for the payment of State aid.

Article 7

28. With a view to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, and combating racial prejudices, the Government included new subjects, as follows, in the elementary and high school curricula:

Understanding of typical characteristics of different races and ethnic groups;

Understanding of racial prejudice and situations of racial discrimination;

Measures and efforts to eliminate racial prejudice and discrimination.

29. Schools, the mass media and the Government play an important role in promoting human rights. They observe every first week of December as "Human Rights Week". 10 December is observed as "Universal Declaration of Human Rights Day". And on these occasions, the Government hosts seminars on the issue of promoting human rights and provides people with free judicial consultations. The Government also publishes booklets and information kits, which explain in detail the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the International Covenant on the Elimination of all Forms of Racial Discrimination. Nowadays Korean newspapers and radio and television stations

provide a lot of well prepared documentary and feature programmes on different cultures, which provide opportunities for better understanding other races and ethnic groups.

30. As of 30 July 1995, a total of 56 schools for foreigners had been established, in which 7,413 students were registered.

Number of schools for foreigners in the Republic of Korea

Total	56
Chinese	37
Americans (US)	14
Japanese	2
British	2
German	1